IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

CRL.A.No. 762 of 2001(C)

CC.18/1998 of JUDL.MAGISTRATE OF FIRST CLASS-II(FOREST OFFENCES),PUNALUR
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APPELLANT: COMPLAINANT

STATE OF KERALA, REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR

RESPONDENTS: ACCUSED NO.1, 3 AND 4
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1. **SUDHAKARAN, S/O. KOCHURAMAN KANI, CHARUVILAPUTHENVEEDU, THANNIMOODE KANI SETTLEMENT, PERINGAMALA TALUK, NEDUMANGADU TALUK.**

2. **CHANDRABABU, S/O.GOPALAKRISHNAN KANI, VISHNUSADANAM VEEDU DO. DO.**

3. **ANILKUMAR, S/O.KRISHNAN KANI, ANILVILASAMVEEDU DO. DO.**

BY ADV. SRI.N.HARIDAS R1 TO R3
SRI.H.SUNDEEP
BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

CRL.A. NO.762/2001

ORDER ON CRL.MP. 4400/2001 IN CRL.A. NO.762/2001

DISMISSED

06.08.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.A.NO. 762 OF 2001

DATED THIS THE 6th August 2007

JUDGMENT

This appeal is filed by the State for setting aside the order of the court below acquitting the accused for the offence under Section 27(1)(e) iii & iv of the Kerala Forest Act and also directing the Forest authorities to give back the timber logs seized to the owner of the property. The case of the prosecution is that on 15-2-1995 and one day prior to that date the accused unlawfully trespassed into the Thannimmoode Kani settlement area situated in Chittar North Beat Section and illegally cut down certain forest trees from the reserve forest and that the loss sustained to the Government in this regard is Rs.1250/-. The evidence adduced in the matter consisted of the testimony of PWs.1 to 3 and Exts.P1 and P2. The accused were acquitted on the ground that it has not been established that the Thannimmoode Kani Settlement Area is a reserve forest. The State has produced the notification in this regard. But the court below held that as the trees that were cut were situated in the settlement area the act of the accused would not amount to an offence as such. I find that there is no provision that the settlers will be entitled to cut down

the trees and appropriate the same. Hence, I find that the order of the court below as such cannot be upheld.

All the same considering the fact that the date of the incident is 15-2-1995 and that the loss noted is Rs.1250/- only at this belated stage it would not be appropriate to remit the matter back to the Judicial First Class Magistrate Court. Hence, the appeal is closed setting aside the direction of the court below to return the property seized to the person from whom the property was seized. The appeal is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.A. 762 of 2001
JUDGMENT

6-8-2007